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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,645	03/07/2001	Troy Michael Runge	16,670	5221

23556 7590 04/28/2005

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EXAMINER

HALPERN, MARK

ART UNIT PAPER NUMBER

1731

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,645

Applicant(s)

RUNGE ET AL

Examiner

Mark Halpern

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-19, 22-33 and 35-79 is/are pending in the application.
- 4a) Of the above claim(s) 35-76 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-19, 22-33 and 77-79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/14/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

- 1) Acknowledgement is made of Amendment received 1/31/2005.

Claims 1-6, 8-19, 22-33, 77-79, are under consideration. Claims 35-76, are withdrawn.

Claim Objections

- 2) The status of claims 77-79, should recite -(Previously Presented)- in place of "(New)".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3) Claims 1-2, 4-5, 8-19, 22-23, 25, 27-33, 77-79, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hansen (5,547,541).

Claims 1-2, 4-5, 14, 17-18, 22-23, 25, 27: Hansen discloses sequentially spraying a non-polymeric or polymeric binder and water insoluble superabsorbent onto the surface of a dewatered and dried web as shown in a paper machine in Figure 1 and disclose chemicals listed in columns 19-20. The treated sheet is then fiberized to form absorbent non-woven products. The sprayed additives in Hansen are bound to the fibers and are inherently retained up to 100% in the sheet when exposed to a liquid, water, and thus anticipate or it would have been obvious to one skilled in the art at the time the invention was made, show the claimed invention.

Claims 8-13, 33: the chemical additives are softening agents (Abstract). Polyhydroxy compounds are disclosed (col. 27, lines 35-50). Absorbency agents are disclosed (col. 42, lines 14-20). Strength agents are disclosed (col. 42, lines 46-52).

Claims 15, 29-32, 77-79: the amount of chemical additive is disclosed in the Examples.

Claims 16-17: dried fiber consistency is disclosed between 90 and 92 percent (col. 8, lines 35-45).

Claim 19; tissue forming is disclosed (col. 35, lines 19-32).

Claim 28: paper product enhanced quality is disclosed (Abstract).

4) Claims 3, 6, 24, 26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen in view of Champaigne (3,556,931). Hansen is applied as above for

claims 1, 22, Hansen is silent on a z-direction gradient of the chemical additive. Champaigne discloses a process of making a cellulosic fluffed sheet, wherein a quaternary ammonium salt is added to the web in such a way as to penetrate only the surface zone of the web and thus create a gradient of chemical additive penetration into the web (Champaigne, col. 1, lines 13-27, and col. 1, line 64 to col. 2, line 19). It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Hansen and Champaigne, because such a combination would create a product of Hansen having a dense absorbent inner zone and a softer more fluid outer zone, as disclosed by Champaigne (col. 1, lines 25-27).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5) Claims 1-6, 8-19, 22-33, 77-79, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15, of U.S. Patent No. 6,582,560. Although the conflicting claims are not identical, they are not

patentably distinct from each other because the present claims are open to forming a paper from the treated fibers.

6) Claims 1-6, 8-19, 22-33, 77-79, are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-73, of copending Application No. 10/242,571. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present claims are open to forming a paper from the treated fibers.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Amendment

7) Claims 1-2, 4-5, 8-19, 22-23, 25, 27-33, 77-79, rejection under 35 U.S.C. 102(b) as being anticipated by Shaw (3,819,470), is withdrawn in view of applicants arguments and further search of art in prior art.

8) Claims 3, 6, 24, 26, rejection under 35 U.S.C. 103(a) as being unpatentable over Shaw in view of Champaigne (3,556,931), is withdrawn in view of applicants arguments and further search of art in prior art.

9) Applicants' arguments with respect to claims 1-6, 8-19, 22-33, 77-79, have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 571-272-1190. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Halpern
Primary Examiner
Art Unit 1731